

## DOCKETING STATEMENT-AGENCY

Caption of Case **4CCA Docket No. (If Known)** 15-1590**NATIONAL LABOR RELATIONS BOARD**

v.

Type of Action

**BROWN & PIPKINS, LLC D/B/A ACSENTIAL**

☒ Application for Enforcement  
☐ Petition for Review  
☐ Cross Petition

Name of Agency **NATIONAL LABOR RELATIONS BOARD**

Administrative Law Judge \_\_\_\_\_

Agency Number **05-CA-130620**Statute or other authority establishing jurisdiction in the Court of Appeals **29 U.S.C. § 160(e)**

## A. Timeliness

1. Date of entry of order **December 2, 2014**
2. Time allowed for review or enforcement \_\_\_\_\_  
Authority \_\_\_\_\_

## B. Finality

1. Tribunal or board issuing order or regulation **National Labor Relations Board**
2. Is the order or judgment appealed from a final decision on the merits? yes ☒ no ☐
3. If no, is the order appealed from a collateral or interlocutory order reviewable under any exception to the finality rule? yes ☐ no ☒  
If yes, explain

## C. If INS case, is petitioner subject to deportation while this petition is pending?

yes ☐ no ☐

If yes, do you intend to file a motion to stay deportation?

yes ☐ no ☐

## D. Has this case been before the Court previously?

yes ☐ no ☒

If yes, give case name, docket number, and disposition of each prior appeal on a separate sheet.

## E. Is there any case now pending or about to be brought before this Court, any other court or administrative agency, or the Supreme Court which either arises from the same case or controversy or involves substantially related issues?

yes ☐ no ☒

If yes, cite the case and manner in which it is related on a separate sheet. If abeyance, consolidation, or in seriatim argument is warranted, counsel must file a separate motion seeking such relief.

If related case is pending in this Court, has it been accepted for mediation by the Office of the Circuit Mediator?

yes ☐ no ☐

- F. State the nature of the proceeding, the relief sought, and the outcome below. Attach additional page if necessary. **On August 6, 2014, the Regional Director issued a complaint and notice of hearing charging Respondent with certain violations of the Act. Respondent failed to file an answer to the Board's unfair labor practice complaint. On September 16, 2014, the General Counsel filed with the Board a Motion for Default Judgment and, on September 18, 2014, the Board issued an order transferring the proceeding to the Board and giving Respondent until October 2, 2014, to file with the Board in Washington, D.C., a response to the Motion for Default Judgment. Respondent did not file a response and, on December 2, 2014, the Board issued a decision and order granting the Motion for Default Judgment and entering an appropriate order against the Respondent.**
- G. Issues to be raised on petition or application. Attach additional page if necessary. **Due to Respondent's failure to respond to the Board's complaint and notice of hearing, motion for default judgment or Notice to Show Cause; the Board is entitled to summary entry of a judgment enforcing its order.**
- H. Is settlement being discussed? yes ☐ no ☒
- I. Is expedited disposition of this case necessary? yes ☐ no ☒

If yes, you must file an appropriate motion.

Is oral argument necessary? yes ☐ no ☐

- J. List each adverse party to this action. Attach additional sheets if necessary. If no attorney, give address and telephone number of the adverse party.

Adverse party Brown & Pipkins, LLC d/b/a Acsential  
Attorney Board is not aware of counsel for Respondent  
Address 2950 Stone Hogan Rd, S.W., Bldg 5, Atlanta, GA 30331  
Telephone Deidre F. Brown Collins, Tel: (404) 349-9030, Email: dfbrown@acsential.com

- K. Petitioner's or Applicant's Name National Labor Relations Board  
Address 1099 14th Street N.W., Washington D.C. 20570  
Telephone 202 273-2960

- L. Attorney or pro se litigant filing this docketing statement. Will you be handling the appeal?  
yes ☒ no ☐  
Name Linda Dreeben  
Attorney ☒ Pro Se ☐  
Firm National Labor Relations Board  
Address 1099 14th Street N.W., Washington D.C. 20570  
Telephone (202) 273-2960

If this is a joint statement by multiple petitioners or applicants, add the names and addresses of other petitioners or applicants and their counsel on an additional sheet, accompanied by a certification that all petitioners or applicants concur in this filing.

Signature s/ Linda Dreeben

Date **06/03/2015**

EACH COPY OF THE DOCKETING STATEMENT SERVED OR FILED SHALL HAVE ATTACHED TO IT COPIES OF:

- (1) THE APPLICATION FOR ENFORCEMENT, OR PETITION FOR REVIEW;
- (2) THE DOCKET SHEET OF THE AGENCY FROM WHICH THE APPEAL IS TAKEN;
- (3) THE JUDGMENT OR ORDER SOUGHT TO BE REVIEWED AND ANY OPINION OR FINDING;
- (4) ANY OPINION, FINDINGS, OR RECOMMENDATION OF AN ADMINISTRATIVE LAW JUDGE UNDERLYING THE ORDER AT ISSUE;
- (5) ANY TRANSCRIPT ORDER (WITH ATTACHMENTS, IF ANY); AND
- (6) A CERTIFICATE OF SERVICE FOR THIS DOCKETING STATEMENT.

*NOTICE: This opinion is subject to formal revision before publication in the bound volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.*

**Brown & Pipkins, LLC d/b/a Acsential and Service Employees International Union, Local 32 BJ.**  
Case 05-CA-130620

December 2, 2014

**DECISION AND ORDER**

BY CHAIRMAN PEARCE AND MEMBERS JOHNSON  
AND SCHIFFER

The General Counsel seeks a default judgment in this case on the ground that the Respondent has failed to file an answer to the complaint. Upon a charge and amended charge filed by Service Employees International Union, Local 32 BJ (the Union) on June 10 and 16, 2014, respectively, the General Counsel issued the complaint on August 6, 2014, against Brown & Pipkins, LLC d/b/a Acsential, the Respondent, alleging that it has violated Section 8(a)(5) and (1) of the Act. The Respondent failed to file an answer.

On September 16, 2014, the General Counsel filed a Motion for Default Judgment with the Board. Thereafter, on September 18, 2014, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

**Ruling on Motion for Default Judgment**

Section 102.20 of the Board's Rules and Regulations provides that the allegations in a complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively stated that unless an answer was received by August 20, 2014, the Board may find, pursuant to a motion for default judgment, that the allegations in the complaint are true. Further, the undisputed allegations in the General Counsel's motion disclose that the Region, by letter dated August 28, 2014, notified the Respondent that unless an answer was received by September 11, 2014, a motion for default judgment would be filed. Nevertheless, the Respondent failed to file an answer.

In the absence of good cause being shown for the failure to file an answer, we deem the allegations in the complaint to be admitted as true, and we grant the General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

**FINDINGS OF FACT**

**I. JURISDICTION**

At all material times, the Respondent, a Georgia limited liability company with an office and place of business in Ft. Belvoir, Virginia (the Respondent's facility), has been engaged in providing custodial and cleaning services to the United States Government. During the 12 months preceding issuance of the complaint, a representative period, the Respondent, in conducting its business operations described above, has provided services to the United States Government in excess of \$50,000.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

**II. ALLEGED UNFAIR LABOR PRACTICES**

At all material times, the following individuals have held the positions set forth opposite their respective names and have been supervisors of the Respondent within the meaning of Section 2(11) of the Act and agents of the Respondent within the meaning of Section 2(13) of the Act:

George Brown	Project Manager
Courtney Collins	Owner
Deidre Brown Collins	President and Owner
Annette Pipkins	Human Resources Manager and Owner

The following employees of the Respondent (the unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and part-time janitorial employees (including lead janitors, if utilized, and probationary employees) employed by the Respondent at the Ft. Belvoir location in Virginia.

At all times since September 4, 2012, and at all material times, the Respondent has recognized the Union as the exclusive collective-bargaining representative of the unit. This recognition has been embodied in a collective-bargaining agreement, which was effective from September 4, 2012 to August 1, 2014. At all times since September 4, 2012, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit.

Since about April 11, 2014, the Union requested that the Respondent meet for the purposes of negotiating a successor collective-bargaining agreement with respect to wages, hours, and other terms and conditions of em-

ployment. Since about April 11, 2014, the Respondent has refused to meet and bargain, including by refusing to meet on reasonable dates and at reasonable times, and to meet for in-person negotiations.

#### CONCLUSION OF LAW

By the conduct described above, the Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees within the meaning of Section 8(d) of the Act, in violation of Section 8(a)(5) and (1) of the Act. The Respondent's unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

#### REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has violated Section 8(a)(5) and (1) by, since about April 11, 2014, refusing to meet and bargain with the Union, including by refusing to meet on reasonable dates and at reasonable times, and to meet for in-person negotiations, we shall order the Respondent, on request, to meet and bargain in good faith with the Union as the exclusive collective-bargaining representative of the unit and, if an understanding is reached, to embody the understanding in a signed agreement.<sup>1</sup>

#### ORDER

The National Labor Relations Board orders that the Respondent, Brown & Pipkins, LLC d/b/a Acsential, Fort Belvoir, Virginia, its officers, agents, successors, and assigns, shall

##### 1. Cease and desist from

(a) Failing and refusing to meet and bargain collectively and in good faith with Service Employees International Union, Local 32 BJ as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full-time and part-time janitorial employees (including lead janitors, if utilized, and probationary employees) employed by the Respondent at the Ft. Belvoir location in Virginia.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, meet and bargain with the Union as the exclusive collective-bargaining representative of the unit employees on terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement.

(b) Within 14 days after service by the Region, post at its facility in Ft. Belvoir, Virginia copies of the attached notice marked "Appendix."<sup>2</sup> Copies of the notice, on forms provided by the Regional Director for Region 5, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since April 11, 2014.

(c) Within 21 days after service by the Region, file with the Regional Director for Region 5 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. December 2, 2014

Mark Gaston Pearce,

Chairman

<sup>1</sup> Member Schiffer observes that, to remedy the Respondent's unlawful failure to meet and bargain with the Union on reasonable dates and at reasonable times, the complaint sought additional remedies requiring the Respondent to: (1) bargain on request within 15 days of a Board Order; (2) bargain on request for a minimum of 15 hours per week until the parties reached an agreement, impasse, or agreed otherwise; (3) prepare and submit to the Region and the Union written bargaining progress reports every 15 days; and (4) make whole employee negotiators for earnings lost while attending bargaining sessions. She would have granted these additional remedies had they been requested in the General Counsel's Motion for Default Judgment.

<sup>2</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

ACSENTIAL

3

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Harry I. Johnson, III, Member

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Nancy Schiffer, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

## APPENDIX

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE

NATIONAL LABOR RELATIONS BOARD

An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

## FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to meet and bargain collectively and in good faith with Service Employees International Union, Local 32 BJ (the Union) as the exclu-

sive collective-bargaining representative of our employees in the following appropriate unit:

All full-time and part-time janitorial employees (including lead janitors, if utilized, and probationary employees) employed by us at our Ft. Belvoir location in Virginia.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL, on request, meet and bargain with the Union as the exclusive collective-bargaining representative of the unit employees on terms and conditions of employment, and put in writing and sign any agreement reached.

BROWN &amp; PIPKINS, LLC D/B/A ACSENTIAL

The Board's decision can be found at [www.nlr.gov/case/05-CA-130620](http://www.nlr.gov/case/05-CA-130620) or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C. 20570, or by calling (202) 273-1940.

